

(2) MODIFICATION OF GIFT TAX RATE.—On and after the date of the introduction of this Act, subsection (a) of section 2502 of the Internal Revenue Code of 1986 is amended to read as such subsection would read if section 511(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 had never been enacted.

(3) CONFORMING AMENDMENT.—Section 2511 of the Internal Revenue Code of 1986 is amended by striking subsection (c).

(4) PERIOD OF REPEAL TREATED AS SEPARATE CALENDAR YEAR.—

(A) IN GENERAL.—For purposes of applying sections 1015, 2502, and 2505 of the Internal Revenue Code of 1986, calendar year 2010 shall be treated as 2 separate calendar years one of which ends on the day before the date of the introduction of this Act and the other of which begins on such date of introduction.

(B) APPLICATION OF SECTION 2504(b).—For purposes of applying section 2504(b) of the Internal Revenue Code of 1986, calendar year 2010 shall be treated as one preceding calendar period.

(C) MODIFICATION OF GENERATION-SKIPPING TRANSFER TAX.—In the case of any generation-skipping transfer made after December 31, 2009, and before the date of the introduction of this Act, the applicable rate determined under section 2641(a) of the Internal Revenue Code of 1986 shall be zero.

(d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO REFLECT DIFFERENCES IN CREDIT RESULTING FROM DIFFERENT TAX RATES.—

(1) ESTATE TAX.—

(A) IN GENERAL.—Section 2001(b)(2) is amended by striking “if the provisions of subsection (c) (as in effect at the decedent’s death)” and inserting “if the modifications described in subsection (g)”.

(B) MODIFICATIONS.—Section 2001 is amended by adding at the end the following new subsection:

“(g) MODIFICATIONS TO GIFT TAX PAYABLE TO REFLECT DIFFERENT TAX RATES.—For purposes of applying subsection (b)(2) with respect to 1 or more gifts, the rates of tax under subsection (c) in effect at the decedent’s death shall, in lieu of the rates of tax in effect at the time of such gifts, be used both to compute—

“(1) the tax imposed by chapter 12 with respect to such gifts, and

“(2) the credit allowed against such tax under section 2505, including in computing—

“(A) the applicable credit amount under section 2505(a)(1), and

“(B) the sum of the amounts allowed as a credit for all preceding periods under section 2505(a)(2).”.

(2) GIFT TAX.—Section 2505(a) is amended by adding at the end the following new flush sentence:

“For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.”.

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

SEC. 304. APPLICABLE EXCLUSION AMOUNT INCREASED BY UNUSED EXCLUSION AMOUNT OF DECEASED SPOUSE.

(a) IN GENERAL.—Section 2010(c), as amended by section 303(a), is amended by striking paragraph (2) and inserting the following new paragraphs:

“(2) APPLICABLE EXCLUSION AMOUNT.—For purposes of this subsection, the applicable exclusion amount is the sum of—

“(A) the basic exclusion amount, and

“(B) in the case of a surviving spouse, the deceased spousal unused exclusion amount.

“(3) BASIC EXCLUSION AMOUNT.—

“(A) IN GENERAL.—For purposes of this subsection, the basic exclusion amount is \$3,500,000.

“(B) INFLATION ADJUSTMENT.—In the case of any decedent dying in a calendar year after 2010, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.

“(4) DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—For purposes of this subsection, with respect to a surviving spouse of a deceased spouse dying on or after the date of the enactment of the Middle Class Tax Cut Act of 2010, the term ‘deceased spousal unused exclusion amount’ means the lesser of—

“(A) the basic exclusion amount, or

“(B) the excess of—

“(i) the basic exclusion amount of the last such deceased spouse of such surviving spouse, over

“(ii) the amount with respect to which the tentative tax is determined under section 2001(b)(1) on the estate of such deceased spouse.

“(5) SPECIAL RULES.—

“(A) ELECTION REQUIRED.—A deceased spousal unused exclusion amount may not be taken into account by a surviving spouse under paragraph (2) unless the executor of the estate of the deceased spouse files an estate tax return on which such amount is computed and makes an election on such return that such amount may be so taken into account. Such election, once made, shall be irrevocable. No election may be made under this subparagraph if such return is filed after the time prescribed by law (including extensions) for filing such return.

“(B) EXAMINATION OF PRIOR RETURNS AFTER EXPIRATION OF PERIOD OF LIMITATIONS WITH RESPECT TO DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—Notwithstanding any period of limitation in section 6501, after the time has expired under section 6501 within which a tax may be assessed under chapter 11 or 12 with respect to a deceased spousal unused exclusion amount, the Secretary may examine a return of the deceased spouse to make determinations with respect to such amount for purposes of carrying out this subsection.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 2505(a) is amended to read as follows:

“(1) the applicable credit amount in effect under section 2010(c) (determined as if the applicable exclusion amount were \$1,000,000) which would apply if the donor died as of the end of the calendar year, reduced by”.

(2) Section 2631(c) is amended by striking “the applicable exclusion amount” and inserting “the basic exclusion amount”.

(3) Section 6018(a)(1) is amended by striking “applicable exclusion amount” and inserting “basic exclusion amount”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, on and after the date of the enactment of this Act.

SEC. 305. EXCLUSION FROM GROSS ESTATE OF CERTAIN FARMLAND SO LONG AS FARMLAND USE BY FAMILY CONTINUES.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 is amended by inserting after section 2033 the following new section:

“SEC. 2033A. EXCLUSION OF CERTAIN FARMLAND SO LONG AS FARMLAND USE BY FAMILY CONTINUES.

“(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the adjusted value of qualified farmland included in the estate.

“(b) ESTATES TO WHICH SECTION APPLIES.—This section shall apply to an estate if—

“(1) the executor—

“(A) elects the application of this section,

“(B) files an agreement referred to in section 2032A(d)(2), and

“(C) obtains a qualified appraisal (as defined in section 170(f)(11)(E)(i)) of the qualified farmland to which the election applies and attaches such appraisal to the return of the tax imposed by section 2001.

“(2) the decedent was (at the date of the decedent’s death) a citizen or resident of the United States,

“(3) the decedent for the 3-taxable-year period (10-taxable-year period in the case of any qualified farmland which is qualified woodland described in section 2032A(c)(2)(F)(i)) preceding the date of the decedent’s death had an average modified adjusted gross income (as defined in section 86(b)(2)) not exceeding \$750,000,

“(4) 60 percent or more of the adjusted value of the gross estate at the date of the decedent’s death consists of the adjusted value of real or personal property which is used as a farm for farming purposes (within the meaning of section 2032A(e)),

“(5) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of qualified farmland which is real property, and

“(6) during the 10-year period ending on the date of the decedent’s death—

“(A) the qualified farmland which is such real property was owned by the decedent or a member of the decedent’s family, and

“(B) there was material participation (within the meaning of section 469(h)) by the decedent or a member of the decedent’s family in the operation of such farmland.

“(c) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED FARMLAND.—The term ‘qualified farmland’ means any real property—

“(A) which is located in the United States,

“(B) which is used as a farm for farming purposes (within the meaning of section 2032A(e)),

“(C) such use of which is not an activity not engaged in for profit (within the meaning of section 183),

“(D) which was acquired from or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent’s death, was being so used by the decedent or a member of the decedent’s family, and

“(E) which is property designated in the agreement filed under subsection (b)(1).

“(2) ADJUSTED VALUE.—The term ‘adjusted value’ means the value of farmland for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect to such farmland under paragraph (3) or (4) of section 2053(a).

“(3) OTHER TERMS.—Any other term used in this section which is also used in section 2032A shall have the same meaning given such term by section 2032A.

“(d) ANNUAL INFORMATION RETURN TO THE SECRETARY.—